

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

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|---|---|---|
| DENNIS ALLEN, et al. | : | |
| | : | Case No. C-1-01-159 |
| Plaintiffs | : | |
| | : | Judge Herman S. Weber |
| v. | : | |
| | : | Magistrate Judge Timothy S. Hogan |
| JOHN CRARY, et al. | : | |
| | : | |
| Defendant/ Third-Party Plaintiff | : | REPLY TO DEFENDANT JOHN CRARY S OPPOSITION TO THIRD-PARTY DEFENDANTS POLLY JONES AND SHIRLEY MONROE S EXPEDITED MOTION TO CONTINUE THE DISPOSITIVE MOTIONS DEADLINE ON THIRD-PARTY CLAIMS ONLY |
| | : | |
| v. | : | |
| | : | |
| POLLY JONES, et al. | : | |
| | : | |
| Third-Party Defendants | : | |
| | : | |

Third-PartyThird-Party Defendants, Polly Third-Party Defendants, Polly JonesThird-Party Defenda
toto Defendant John Crary s (Crary)to Defendant John Crary s (Crary) Oppositionto Defendant John
DispositiveDispositive MotionsDispositive Motions Deadline on Third-Party Claims Only.Dispositive Mot
requestrequest the Court hold an expedited telephonic conference withrequest the Court hold an exped
pending motion, given the approaching deadlines in this action.

Crary sCrary s opposition memorandum is cluttered wiCrary s opposition memorandum is cluttered
motion.¹ Reduced to its essence, Crary s position is Reduced to its essence, Crary s position is that the C
andand thereby continue the deadline for Joand thereby continue the deadline for Jones aand therefor
judgment.

CCrary sCrary s sole objection to this motion is that the Court also should continue other

¹ The undersigned will not respond to nor dignify the inappropriate comments and innuendo made by Crary s out-of-state counsel about counsel for Jones and Monroe.

deadlines in this case, including the discovery cut-off deadline and the trial date. However, this Court has not modified the existing scheduling order to move the discovery deadline or the trial date. It appears that the Court's decision (September 15), Crary seeks a *post hoc* continuance of the discovery deadline. The Court should reject this belated and unsupported request. The parties have had ample opportunity to conduct discovery in this matter, and Crary does not assert any new facts with respect to the continuance of the trial date. Crary has not shown that the existing date and there is no cause for doing so. The pre-trial discovery phase of the matter has ended, and there is no reason to alter the trial date originally set for August, 2002. No motion by Crary or any other party defendants pending resolution of the motion to dismiss occurred.

Unlike all other current deadlines in this case, the dispositive claims asserted against Jones and Monroe should be resolved by the fact that Jones's and Monroe's motion to dismiss has not yet been ruled upon. There is no reason for Jones and Monroe to file motions for summary judgment; their motions may be mooted by a favorable decision on their pending motion to dismiss. In many senses will be highly duplicative of the motions to compel discovery. Of judicial economy, Jones and Monroe's deadline, solely with respect to the third-party claims, until such time as the pending motion to dismiss these claims.

Respectfully submitted,

s/ Stephen A. Simon

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served this 30th day of September, 2003, by facsimile to Paul D. Marotta, and U.S. regular mail, postage prepaid, upon the following:

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s/ Stephen A. Simon

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